

# **3 FAM 4190 FISCAL IRREGULARITIES**

*(TL:PER-342; 10-31-1997)*

## **3 FAM 4191 GENERAL POLICY**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

Each instance of a fiscal irregularity (***defined in section 3 FAM 4192.1 paragraph a through f***) involving ***Civil Service or Foreign Service*** personnel must be investigated thoroughly to:

- (1) Determine and report in detail the circumstances of the irregularity;
- (2) Achieve restoration of amounts due to the United States; and

(3) Prescribe remedial measures to safeguard against future defalcations and irregularities to the end that the employee be cleared of further financial responsibility or be subject to proper disciplinary action.

## **3 FAM 4192 INVESTIGATIONS**

### **3 FAM 4192.1 Scope**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

a. Investigations are made of instances of fiscal irregularities which involve:

- (1) Shortage or overage of public funds;
- (2) Illegal disbursements resulting from fraud, forgery, alteration of vouchers, and other improper practices;
- (3) Improper accounting for receipts;
- (4) Improper accounting for imprest funds;
- (5) Shortage of property; or
- (6) Any other irregularity which involves accountability to the United States.

b. Irregularities as defined *in 3 FAM 4192.1 paragraph a* include those disclosed by examination of disbursement and collection transactions, any custodial responsibility (such as cash counts) and any other internal review or inspection.

## **3 FAM 4192.2 Responsibility**

### **3 FAM 4192.2-1 Departmental Offices**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

The head of each Departmental bureau and independent office has initial responsibility for investigating within the organization any irregularity of the nature described in **3 FAM 4192.1** and reporting thereon.

### **3 FAM 4192.2-2 Field Offices**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

The principal officer has initial responsibility for investigating and reporting thereon any irregularity of the nature described in **3 FAM 4192.1** at the post.

### **3 FAM 4192.2-3 Inspector General**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

**a.** Under section 209 of the Foreign Service Act of 1980, the Inspector General of the Department is responsible for conducting and directing all investigations of complaints, allegations, or other information relating to the possible existence of fraud or malfeasance throughout the Department and the Foreign Service. Consequently, when any initial inquiry discloses an indication of malfeasance or a violation of laws and/or regulations, as specified in **2 FAM 035** such inquiry is to be suspended and a report made expeditiously to the Inspector General (OIG).

**b.** See **2 FAM 035** regarding reporting information to OIG.

## **3 FAM 4193 COMMITTEE OF INQUIRY**

### **3 FAM 4193.1 Establishment and Membership**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

*a. There is established within the Department a Committee of Inquiry into Fiscal Irregularities. The Committee has a standing membership of one representative from the Bureau of Personnel, one representative from the Office of the Assistant Legal Advisor for Legislation and General Management (L/LM), and one representative from the Office of the Deputy Assistant Secretary for Financial Services (FMP/F). The representative from the Office of the Deputy Assistant Secretary for Financial Services serves as permanent chairperson of the Committee.*

*b. A member of the Committee shall not take part in the consideration of any matter in which the member has a personal financial interest, in which the accountability or responsibility of a person directly supervised by the member is at issue, in which the accountability or responsibility of a supervisor of the member is at issue, or in which his or her impartiality might otherwise reasonably be questioned. In such case, the head of the bureau or office represented by the recused member shall designate a substitute member. If, for the same reasons, such bureau or office head should not designate a substitute member, the designation shall be made by the next higher official who is not so disqualified.*

### **3 FAM 4193.2 Scope of Authority**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

*a. The committee functions as a reviewing, advising, and coordinating body to ensure compliance with the Department's policy stated in **3 FAM 4191**. It ensures that reported cases of malfeasance are investigated promptly and referred to higher authority. The committee concerns itself only with fiscal liability.*

*b. Matters involving disciplinary or legal action are referred to the appropriate Departmental office.*

### 3 FAM 4194 REPORTS OF INVESTIGATION

(TL:PER-342; 10-31-1997)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

a. As soon as it is determined that the probability of an irregularity exists, the principal officer of an embassy or head of a Departmental bureau or independent office, as appropriate, advises the Department, **Attention Managing Director, International Financial Service, (FMP/F/IFS)**, by unclassified **cable** or memorandum (unless circumstances warrant a higher classification) under the subject: INVESTIGATION OF IRREGULARITY, giving all facts available and applicable recommendations. If all facts are not then available, the report should so indicate and state when a final report will be forwarded. OIG should be indicated as an information addressee (see **2 FAM 035.3** for reporting to the Inspector General).

b. In case of a loss in the accounts of an accountable officer, **FMP/F/IFS** will notify the Department of Treasury. That Department will be responsible for notifying the General Accounting Office under 7 GAO 18.14.

c. At a subordinate consular post, the principal officer prepares a report to the embassy and sends a copy to the Department. The embassy is responsible for investigating the consular post's report, and for submitting to the Department either an endorsement of the original report or a separate report of its findings and recommendations.

d. Final reports on investigation of all irregularities should include the following information:

(1) A detailed statement of facts, including the type of irregularity, date, amount, and name and position of individuals involved;

(2) A citation of pertinent supporting documents, such as receipts, pay records, contracts, vouchers, etc.;

(3) A description of how the irregularity occurred and how it affected the accountable officer's account;

(4) Significant information on procedural deficiencies, if known, and the corrective action taken, or to be taken;

(5) Information as to the recoupment or restitution effected or contemplated from the responsible individual(s); and

(6) If complete restitution cannot be effected at the post or office level, a suitable recommendation for settlement or resolution of the irregularity appropriate to the circumstances should be made. In the event that the evidence is that the irregularity did not occur by reason of willful intent to defraud the Government or fault or negligence on the part of the accountable officer or supervisory personnel, consideration should be given to a recommendation to resolve the irregularity by administrative action of the Committee of Inquiry into Fiscal Irregularities appropriate to the circumstances, where the amount is less than **\$3,000**, or to seek relief from the Comptroller General where the amount is more than **\$3,000**. Such recommendation should bear the signature of the principal officer, or head of a Departmental bureau or independent office, and state whether such irregularity occurred by reason of willful intent to defraud the U.S. Government, or because of fault or negligence on the part of the accountable officer or supervisory personnel.

## **3 FAM 4195 COMMITTEE PROCEDURES**

### **3 FAM 4195.1 Responsibilities**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

a. The chairperson of the Committee of Inquiry into Fiscal Irregularities (**see 3 FAM 4193.1 paragraph a**) is responsible for:

- Calling all meetings of the Committee;
- Presiding over its sessions; and
- Designating one employee from the finance area to be secretary.

b. The secretary is responsible for:

- Advising members of the time, place, and agenda for all meetings;
- The preparation and distribution to members of summaries of committee actions; and
- The maintenance of case files on cases before the Committee.

### **3 FAM 4195.2 Review**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

a. The committee reviews all reports of irregularities to determine:

(1) That the reported or suspected irregularity, in fact, comes within the scope of investigation defined in **3 FAM 4192.1** . If a case is found by the Committee to be outside the defined scope of its investigation, the office head is advised and the Committee takes no further action.

(2) That the investigation has been adequate. The Committee requests such further investigation as it deems necessary.

*b.* In all cases of suspected irregularities, the chief of mission should consider whether the circumstances justify assigning the offending employee other duties pending completion of investigation or final decision by the Department.

*c.* **Deputy Assistant Secretary for Financial Services (FMP/F)**, will maintain copies of reports to be furnished by the General Accounting Office as required by 7 GAO 28.14.

### **3 FAM 4195.3 Committee Determinations**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

The Committee evaluates cases meeting the criteria in **3 FAM 4195.2** and as follows:

(1) If the Committee does not concur, in whole or in part, with the findings and recommendations of the head of the responsible office, it makes its own findings and recommendations based on the facts developed in the investigation.

(2) In every case, the Committee prepares for the **Chief Financial Officer** a report which includes a statement of the nature of the apparent or established irregularity, the facts developed by the investigation, and the findings and recommendations of the Committee.

### **3 FAM 4195.4 Clerical Assistance**

*(TL:PER-342; 10-31-1997)*

*(State Only)*

*(Applies to Foreign Service and Civil Service Employees)*

Such clerical or stenographic employees as may be required to enable the Committee to complete its assignments promptly and efficiently are made available by the Offices represented on the Committee.

### 3 FAM 4196 DISPOSITION OF COMMITTEE REPORT

(TL:PER-342; 10-31-1997)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The **Chief Financial Officer** is delegated authority to endorse the Committee of Inquiry findings. The **Chief Financial Officer** may return the case to the Committee for further consideration, or assign it to one or more offices for corrective and legal or disciplinary action, with a copy of a covering memorandum to the Committee chairperson and the Inspector General. The endorsement constitutes agreement with the Committee findings.

### 3 FAM 4197 MONTHLY REPORTS

(TL:PER-342; 10-31-1997)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

A general statement of cases under consideration by the Committee is submitted by the tenth of each month to the *Chief Financial Officer* and the Inspector General.

### 3 FAM 4198 EMBEZZLEMENT AND OTHER MALFEASANCE

(TL:PER-342; 10-31-1997)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Embezzlement and other malfeasance include the following acts, for which citations or law are indicated:

Act	Legal Citation
Exaction of excessive consular fees	22 U.S.C. 1189
Uncollected consular fees	22 U.S.C. 1190
Embezzlement of consular fees	22 U.S.C. 1198 31 U.S.C. 496, 514, and 497
Embezzlement of effects of American citizens	22 U.S.C. 1198

False certificate of ownership of property	22 U.S.C. 1200
Neglect to collect wages in discharging seamen	46 U.S.C. 683
Neglect of duty and other malfeasance	22 U.S.C. 1199
Accounting generally for public money	18 U.S.C. 643
Custodians, generally, misusing public funds	18 U.S.C. 648
Custodians failing to deposit money, persons affected	18 U.S.C. 649
Disbursing officer paying lesser in lieu of lawful amount	18 U.S.C. 652
Disbursing officer misusing public funds	18 U.S.C. 653
False entries and reports of moneys or securities	18 U.S.C. 2073

### **3 FAM 4199 UNASSIGNED**